

IN THE CIRCUIT COURT OF VERNON COUNTY, MISSOURI

STATE ex rel. JEREMIAH W. (JAY))	
NIXON,)	
)	
Plaintiff,)	
)	
v.)	Case No. _____
)	
SMITHFIELD FOODS, INC.,)	
)	
Defendant.)	
)	
Serve: Mr. Dick Poulson, Esq.)	
200 Commerce Street)	
Smithfield, VA 23430)	

PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION

COMES NOW, Plaintiff, State of Missouri, and for its petition against defendant, Smithfield Foods, Inc., alleges and states that:

1. Jeremiah W. (Jay) Nixon is the duly elected, qualified, and acting Attorney General of the State of Missouri. He is authorized and empowered to bring this action on behalf of the people of Missouri under Article IV, Section 12 of the Missouri Constitution and §§ 27.060 and 526.030, RSMo.
2. Smithfield Foods, Inc. ("Smithfield"), is a foreign corporation doing business in Missouri.
3. Smithfield, the nation's largest hog producer, owns and operates swine production and slaughter facilities across the country. Smithfield has announced its intention to acquire the hog production assets and facilities of Murphy Family Farms, Inc.,

the nation's second largest hog producer. Murphy owns and operates several large-scale concentrated animal feeding operations on agricultural land in Vernon and Barton Counties, Missouri hereinafter referred to as the "Murphy Property". Murphy also uses Missouri land for livestock production through contracts with individual swine growers.

4. Based on information and belief, Smithfield intends to acquire a controlling interest in Murphy on or about January 20, 2000 and thereafter own agricultural land in Missouri and engage in farming in Missouri in violation of § 350.015 unless restrained and enjoined by this court.
5. Plaintiff has no adequate remedy at law.
6. This Court has jurisdiction to prevent Smithfield from engaging in farming or obtaining an interest in agricultural land in Vernon and Barton Counties, Missouri. §§ 526.010, 526.030, and 350.015.¹
7. This Court is a proper venue under §508.040.

COUNT I -- THIS COURT MUST ENJOIN SMITHFIELD'S ACQUISITION OF AN INTEREST IN MISSOURI AGRICULTURAL LAND OWNED BY MURPHY BECAUSE OBTAINING SUCH AN INTEREST WOULD VIOLATE MISSOURI'S FARMING CORPORATIONS LAW

8. Plaintiff incorporates by reference paragraphs 1-7 as though set forth fully herein.
9. Pursuant to §350.015,

¹All statutory references are to RSMo. Cum. Supp. 1998, unless otherwise noted.

After September 28, 1975, no corporation not already engaged in farming shall engage in farming; nor shall any corporation, directly or indirectly, acquire, or otherwise obtain an interest, whether legal, beneficial or otherwise, in any title to agricultural land in this state...[.]

10. "Agricultural land" means land used for farming. §350.010(1).
11. Pursuant to §350.010(6),

"Farming" means *using or cultivating land for the production of* (a) agricultural crops; (b) *livestock* or livestock products; (c) poultry or poultry products; (d) milk or dairy products; or (e) fruit or other horticultural products, provided; however, "farming" shall not include a processor of farm products or a distributor of farming supplies contracting to provide spraying, harvesting or other farming services. (Italics added).
12. The land used by Murphy for livestock production, the "Murphy Property" described in paragraph 3 *infra*, is agricultural land as defined in §350.010(1).
13. If the proposed transaction is consummated, Smithfield would obtain an interest in the title to Missouri agricultural land in violation of §350.015.
14. Smithfield was not engaged in farming in Missouri prior to September 28, 1975.
15. None of the exceptions listed in §350.015 apply to Smithfield.
16. Therefore, Smithfield's acquiring an interest in the Murphy Property would violate § 350.015.

WHEREFORE, plaintiff prays for this Court's Order granting a preliminary and permanent injunction prohibiting Smithfield from acquiring the Murphy Property and from engaging in farming in Missouri; granting Plaintiff its costs and expenses in bringing this action; and granting such other relief as this court deems just and proper.

**COUNT II --THIS COURT MUST ENJOIN SMITHFIELD'S PROPOSED
ACQUISITION BECAUSE SMITHFIELD INTENDS TO ENGAGE IN FARMING
IN MISSOURI IN VIOLATION OF MISSOURI'S
FARMING CORPORATIONS LAW**

17. Plaintiff incorporates by reference paragraphs 1-16 as though set forth fully herein.
18. Based on information and belief, Smithfield intends to use the Murphy Property to raise hogs in Missouri for slaughter after consummating this transaction.
19. Based on information and belief, Smithfield intends to exercise rights belonging to Murphy under contracts between Murphy and individual Missouri producers or "contract growers" who raise hogs for Murphy after consummating this transaction.
20. Murphy's raising of hogs and the activities associated therewith in Missouri is "farming." §350.010
21. Pursuant to §350.016, there is an exemption to the corporate farming prohibition of §350.015, such that the prohibition does not apply to agricultural land in Missouri counties meeting specific requirements.
22. Neither Vernon nor Barton Counties meet the specific requirements for the exemption set forth in § 350.016, and therefore corporate farming is prohibited in Vernon and Barton Counties under §350.015.
23. Smithfield's assumption and continuation of Murphy's "farming" activities would violate §350.015.

WHEREFORE, plaintiff prays for this Court's Order granting a preliminary and permanent injunction prohibiting Smithfield from acquiring the Murphy Property and from engaging in farming in Missouri; granting Plaintiff its costs and expenses in bringing this action; and granting such other relief as this court deems just and proper.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON
Attorney General

William J. Bryan
Assistant Attorney General
Missouri Bar No. 37711
P. O. Box 899
Jefferson City, Mo 65102
(573) 751-3321
Fax (573) 751-8464

Forest (Trey) W. Hanna, III
Assistant Attorney General
Missouri Bar No. 36614
Penntower Office Center, Ste. 609
3100 Broadway
Kansas City, Missouri 64111
(816) 889-5027 (Phone)
(816) 889-5006 (Fax)

Attorneys for Plaintiff